

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

IN RE:)	
)	
SCOTT ANDREW BRINSFIELD)	CASE NUMBER: 17-01360-JJG-7
)	CHAPTER: 7
Debtor.)	
)	

MOTION FOR RELIEF FROM STAY
AND FOR ABANDONMENT OF REAL ESTATE

U.S. Bank National Association (hereinafter referred to as "U.S. Bank National Association"), Creditor, for its Motion for Relief from Stay and for Abandonment of Real Estate, against Scott Andrew Brinsfield, alleges and says:

1. On March 8, 2017, Scott Andrew Brinsfield (hereinafter referred to as the "Debtor") filed a Petition under Chapter 7 of the Bankruptcy Code in this Court under the above denominated case number.

2. U.S. Bank National Association is a secured creditor of Debtor.

3. On June 6, 2008, the Debtor borrowed from Universal Mortgage Corporation the sum of \$80,733.00 and to evidence such indebtedness made, executed and delivered to Universal Mortgage Corporation a Note (hereinafter referred to as the "Note") under the terms of which Debtor promised to repay that sum with interest thereon at the rate of 5.25% per annum by monthly payments on the first day of each month and continuing each month thereafter until July 1, 2038, at which time the entire balance is due and owing, with attorneys' fees and without relief from valuation and appraisal laws. A copy of said Note is attached hereto, with loan number redacted, if applicable, incorporated herein, and marked Exhibit "A".

4. On June 6, 2008, the Debtor executed a Mortgage to Universal Mortgage

Corporation on real estate and improvements located thereon. Said real estate is situated in Marion County, Indiana (hereinafter referred to as the "Real Estate") which Real Estate is more particularly described as follows:

Lot 130 in Hi-Acre Manor, Third Section, an Addition in Marion County, Indiana, the Plat of which is Recorded in Plat Book 32, Page 339, in the Office of the Recorder of Marion County, Indiana.

and commonly known as: 4029 Viewside Dr, Indianapolis, IN 46221. A copy of said Mortgage being attached hereto with loan number redacted, if applicable, incorporated herein, and marked Exhibit "B".

5. The Mortgage was duly recorded on July 3, 2008 as Instrument No. 2008-0079099, in the Office of the Recorder of Marion County, Indiana.

6. Universal Mortgage Corporation assigned its interest in the Mortgage to U.S. Bank National Association by an Assignment of Mortgage dated June 10, 2008 and recorded on January 29, 2009 as Instrument Number 2009-0008590 in the Office of the Recorder of Marion County, Indiana. A copy of said assignment is attached hereto, with loan numbers redacted, if applicable, incorporated herein, and marked as Exhibit "C".

7. Installments have not been paid according to the terms of the Note and Mortgage and, therefore, the Note and Mortgage are in default.

8. There is due and owing to U.S. Bank National Association the sum of \$71,193.31 in principal and interest as of March 10, 2017, and interest currently accruing thereafter, together with attorneys' fees and any other costs or expenses incurred by U.S. Bank National Association to secure the lien of its Mortgage and as otherwise provided therein.

9. The latest monthly installment was applied to the September 1, 2016 installment, and the Note and Mortgage are in default.

10. There is little or no equity in the Real Estate for the benefit of unsecured creditors.

11. U.S. Bank National Association is being irreparably harmed by the stay preventing it from proceeding to foreclose on its Mortgage because the sums due and owing U.S. Bank National Association are increasing rapidly through the continued accrual of interest and the incurring of other costs and expenses by U.S. Bank National Association to protect its interest in the real estate which is diminishing the secured position of U.S. Bank National Association and accordingly, this Court should enter an Order authorizing U.S. Bank National Association to institute such proceedings as may be necessary to realize upon its Mortgage, which would not hinder, burden, delay, or be inconsistent with this proceeding.

12. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

WHEREFORE, Creditor prays that the stay, pursuant to Section 362 of the Bankruptcy Code, be modified and the automatic bankruptcy stay terminated to permit Creditor, its successors and/or assignees, to pursue any and all legal and equitable remedies available to foreclose on its Mortgage lien and security interest existing prior or pursuant to this Order, including, the right to initiate a foreclosure proceeding; the right to proceed with any foreclosure proceeding instituted but otherwise stayed as a result of the filing of Debtor bankruptcy petition; the right to obtain a foreclosure judgment pursuant to any such proceedings; and the right to praecipe for, and bid at a Sheriff's Sale of the Real Estate or other collateral encumbered by any lien or security interest of Creditor.

Creditor further prays that the property be abandoned from the bankruptcy estate.

Creditor, by counsel, further prays that the 14 day stay of the order imposed by Bankruptcy Rule 4001(a)(3) be waived.

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By /s/ Stacy J. DeLee

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Relief from Stay was served upon the following by U.S. first class mail, postage prepaid, or electronic mail as of the date of filing with the U.S. Bankruptcy Court:

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